THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.24674 of 2006

Dated: 29-11-2006

Between:

Munoor Chelamaiah and others.

..... PETITIONERS

AND

The Joint Collector-II, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.24674 of 2006

ORDER:

The petitioners assail the order of respondent No.1 dated 28-04-2006 in case No.F1/9053/2003, whereunder in exercise of powers under Section 24 of the Andhra Pradesh (Telangana Area) Abolition of Inams Act, 1955 (the Inams Act, for brevity), respondent No.1 set aside the order of respondent No.2 dated 11-11-2003 passed under Section 8 read with Section 10 of the Inams Act and remanded the matter to respondent No.2 with a direction to conduct spot enquiry along with the Assistant Director, Survey and Land Records and pass orders in accordance with law.

M/s Mettu Malla Reddy and others (not parties to this writ petition) obtained Occupancy Rights Certificate(ORC) granted by respondent No.2 in respect of land admeasuring Acs.7.24 guntas in survey Nos. 155, 160 to 162 and 183 situated at Karmanghat, Saroornagar Mandal in Ranga Reddy District. Aggrieved by the same, respondent No.3 – which is a registered religious institution; preferred an appeal under Section 24 of the Inams Act before respondent No.1, who allowed the same on 11-06-2001 and remanded the matter to respondent No.2, whereafter respondent No.2 again passed orders on 11-11-2003 confirming the ORC issued in favour of Mettu Malla Reddy and others. Aggrieved by the same, respondent No.3 again approached respondent No.1 by way of appeal, wherein it was contended that it (respondent No.3) was registered under Section 38 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1966 (the Act, for brevity), that the subject land was in possession of the ex-poojaries and that registration of the land was also prohibited by the Government by notification issued under Section 22-A of the Registration Act, 1908 (the Registration Act, for brevity) as amended by the Andhra Pradesh Act No.4 of 1999 and that as per the proviso to sub-section (2) of Section 4 of the Inams Act, ORC cannot be granted to those persons claiming as occupants. Respondent No.1, having come to the conclusion that respondent No.2 failed to take into consideration the effect of proviso to Section 4(2) of the Inams Act inserted by the Andhra Pradesh (Telangana Area) Abolition of Inams (Amendment) Act, 1994, thought it fit to remand the matter to respondent No.2.

The petitioners are not parties to the proceedings under Section 10 of the Inams Act before respondent No.2 either for first round or the second round nor they are parties before respondent No.1. They allege that the land in survey Nos.188 and 189/1 & 2 is patta land but while in the appeal, respondent No.3 also claimed the said land in survey

Nos.188 and 189/1 & 2 as belonging to it and therefore, issue of ORC under Section 4(2) of the Act is prohibited. The grievance of the petitioners is, therefore, that inclusion of the land in survey Nos.188 and 189/1 & 2 while issuing ORC is illegal and without concern to the ground realities.

After giving anxious consideration and perusing the impugned orders, this Court is not able to accept the contention of the learned counsel for the petitioners. Mettu Malla Reddy and others claimed land in survey Nos.155, 160 to 162 and 183 only. However, in their appeal against the order of respondent No.2 dated 11-11-2003, respondent No.3 also claimed land in survey Nos.188 and 189/1 & 2 also. Though initially ORC was granted in respect of land admeasuring Acs.7.24 guntas in survey Nos. 155, 160 to 162 and 183 in favour of Mettu Malla Reddy and others, as on today, no such ORC is granted to any person claiming to be the occupants in respect of land in survey Nos.188 and 189/ & 2. Mere claim by respondent No.3 for the land in survey Nos.188 and 189/1 & 2 does not in any manner affect the rights of the petitioners unless appropriate enquiry is conducted and ORC is issued in favour of respondent No.3. It is now for the petitioners to approach respondent No.2 and file their objection petition in relation to land in survey Nos.188 and 189/1 & 2.

This writ petition is misconceived and the same is dismissed with the above observations. No costs.

_____

(**V.V.S.RAO, J**)

29th November, 2006

Note: Issue CC in one week.

B/o

ghn